| | | Page 1 |
|--------------------------|---------------------------|--------|
| AMERICAN ARBITRATION ASS | SOCIATION | |
| DUNHILL STAFFING SYSTEMS | X | · |
| | Claimant | |
| -against | t- | |
| DUNHILL FRANCHISEE TRUST | I et al, | |
| | Respondents. | |
| | X | |
| | 200 Park Avenue | , |
| | New York, New York | * . |
| • • | June 22, 2006 | |
| | 11:10 a.m. | |
| | | |
| | | |
| | | |
| | | |
| DEPOSITION of HAI | RVEY J. AUGER, taken on | |
| behalf of the Parties, | pursuant to Notice, held | |
| before a Notary Public | of the State of New York. | |
| | | |
| | | |

| | Page 106 | | Page 108 |
|-----|---------------------------------------------------|----|---------------------------------------------------|
| 1 | H. AUGER | 1 | H. AUGER |
| 1 2 | Q Other than this letter, Exhibit | 2 | Q Are those or is that amount all |
| 3 | A-5, and what you communicated to Dunhill through | 3 | business related? |
| 4 | the FAC, did you give Dunhill, and by you | 4 | A All business, that's all. |
| 5 | meaning, you and/or your wife or the Auger Group, | 5 | Q How about the credit card balances? |
| 6 | LLC, give Dunhill any other written notices of | 6 | A Credit card balances are fifteen on |
| 7 | their alleged breaches? | 7 | one and about four on the other. |
| 8 | A Verbally only. | 8 | Q And how much in losses are you |
| 9 | Q In this case, Mr. Auger, you are | 9 | seeking in relation to your move to Charlotte? |
| 10 | claiming damages from Dunhill? | 10 | A Roughly 20,000. |
| 11 | A Yes. | 11 | Q How about your loss of annual |
| 12 | Q And have you calculated an amount | 12 | revenue or pay? |
| 13 | of damages that you are going to ask the | 13 | A Continual income, the, you know, |
| 14 | arbitrator to award in your favor? | 14 | when I talked to Joanne and I said I'm used to |
| 15 | A Yes. | 15 | making 250,000, she said that is not an |
| 16 | Q And what types of categories of | 16 | unreasonable expectation. I never made any, I |
| 17 | damages are you seeking? | 17 | didn't make any income the whole time that I held |
| 18 | A Initial investment, capital | 18 | my office so, you know, I would assume that I |
| 19 | investment, the move to Charlotte and loss of | 19 | should make at least 200,000 a year. |
| 20 | annual revenue or annual pay for myself, | 20 | Q Do you recall being given a request |
| 21 | attorney's fees. | 21 | for production of documents that were served by |
| 22 | Q Okay. Anything else? | 22 | my office to your counsel? |
| 23 | A I think that's it. | 23 | A Yes. |
| 24 | Q Did you undertake the calculation | 24 | Q Did you participate in assembling |
| 25 | yourself or did you have someone do that on your | 25 | documents that were provided in response to that |
| | Page 107 | | Page 109 |
| 1 | H. AUGER | 1 | H. AUGER |
| 2 | behalf other than your attorney? | 2 | request? |
| 3 | A I did it myself. | 3 | A Yes. |
| 4 | Q And how did you calculate your | 4 | Q Did you understand that the request |
| 5 | losses in each of these categories? | 5 | asked you to provide every document in your |
| 6 | A Well, the initial investment was | 6 | possession that would be supportive of the |
| 7. | very easy to do. | 7 | various counterclaims that you are asserting? |
| 8 | Q That would be the \$38,000.00 fee? | 8 | A Well, I believe so. |
| 9 | A Correct. | 9 | Q Okay. Your attorney this morning |
| 10 | Q What was the amount of your capital | 10 | produced that one additional document, the |
| 11 | investment? | 11 | business opportunity document that had not been |
| 12 | A Conservatively 200,000. | 12 | previously produced. Are there any other |
| 13 | Q What was included in your capital | 13 | documents in your possession that have not been |
| 14 | investment? | 14 | produced that in any way would support the |
| 15 | A All the investments for the office; | 15 | different counterclaims that are being asserted |
| 16 | salaries, operating expenses, covering the | 16 | to the best of your knowledge? |
| 17 | losses. | 17 | A I am still going through files and |
| 18 | Q Are there any outstanding business | 18 | looking for everything I can to support it so I |
| 19 | liabilities that have not been satisfied? | 19 | don't know in this point of time that I will find |
| 20 | A Yes, I have a line of credit and | 20 | something else. |
| 21 | numerous credit card bills. | 21 | MR. WOLF: Those are all the |
| 22 | Q What is the balance of the line of | 22 | questions that I have for you, Thank |
| 23 | credit? | 23 | you. |
| 24 | A The balance now is only about | 24 | MR. ROSEN: I have a few |
| 25 | | 25 | questions. |

Page 1

AMERICAN ARBITRATION ASSOCIATION

DUNHILL STAFFING SYSTEMS, INC.,

Claimant,

-against-

DUNHILL FRANCHISEE TRUST, et. al.,

Respondents.

DEPOSITION OF MICHAEL LAMANNA

New York, New York

Wednesday, June 21,2006

Reported by: William Byrne JOB NO. 43777

U.S. LEGAL SUPPORT, INC. 1 PENN PLAZA, NEW YORK, NY 10119

| 1 | | Page 122 | | Page 124 |
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| 2 would you describe that? 3 A. The money that I invested into the business that the loss of – let's 5 see, the money that I invested into the business that I have not recovered as of 7 this time and to put a dollar figure on 8 it, it's maybe in the amount of 50 – 9 MR. ROSEN: He didn't ask you 10 to put a dollar figure. 10 That was going to be my next 12 question. If you could put an estimated 13 dollar figure on 16 to costs during the time that you were in 17 to 20 to would that estimated amount be? 18 A. I think it was approximately 18 \$50,000 in investment, and that's to the 20 best of my recollection, there may be 21 additional. 22 Q. I will not hold you to that 23 specific estimation, it's just to get an 24 are all the questions that I have 25 for you. Thank you very much. 26 MR. WOLF: I believe those 27 are all the questions that I have 28 for you. Thank you very much. 29 MR. ROSEN: I have a couple of questions. 20 MR. ROSEN: I have a couple of questions. 20 MR. ROSEN: I have a couple of admage that you suffered, and you were reciting some of the areas that you had 27 spent money on. Did you spend money on 28 advertising, did you make an advertising 29 contribution to the firanchisor? 20 May 20 May have to relocate — 20 Minula last the training. 20 May 19 MR. ROSEN: 1 have a couple of questions. 21 MR. ROSEN: 1 have a couple of questions. 22 MR. ROSEN: 1 have a couple of questions. 23 MR. ROSEN: 1 have a couple of questions. 24 MR. ROSEN: 1 have a couple of questions. 25 MR. WOLF: I believe those 26 mr. 26 MR. WOLF: I believe those 27 A. Yes. 1 did. 29 MR. ROSEN: 1 have a couple of questions. 25 MR. WOLF: I believe those 27 MR. ROSEN: 1 have a couple of questions. 25 MR. ROSEN: 1 have a couple of questions. 25 MR. WOLF: I believe those 26 MR. WOLF: I believe those 27 MR. ROSEN: 1 have a couple of questions. 25 MR. Wolf asked you to if you 26 MR. ROSEN: 1 have a couple of questions. 26 MR. WOLF: I believe those 27 MR. ROSEN: 1 have a couple of questions. 26 MR. WOLF: I believe those 27 MR. ROSEN: 1 have a | | Page 122 | | |
| A The money that I invested into the business that the loss of – let's see, the money that I invested into the business that I have not recovered as of this time and to put a dollar figure on it, it's maybe in the amount of 50 g MR. ROSEN: He didn't ask you to put a dollar figure. Q. That was going to be my next question. If you could put an estimated dollar figure on the amount that you invested in either start-up or operating costs during the time that you were in business as a Dunhill franchise owner, what would that estimated amount be? R. A. I think it was approximately specific estimation, it's just to get an idea of what you were talking about. The \$50,000 investment costs. Page 123 M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. MR. ROSEN: MR. ROSEN: MR. ROSEN: MR. COSEN: MR. COSEN: Q. Would wou expect to be entitled to interest on your losses in your investment? A. Yes. Q. Do you think that the franchise obecance of its conduct, and let's say its purported contract inducing you to enter into the contract, should be tersonized because of its conduct, and let's say its purported contract inducing you to enter into the contract, should be remitled to interest on your losses in your investment? A. Yes. Q. Do you think that the franchises because of its conduct, and let's say its purported contract inducing you to enter into the contract, should be remitled to interest on your losses in your investment? A. Yes. Q. Do you think that the franchises obecane of its conduct, and let's say its purported contract inducing you to enter into the contract, should be remitled to interest on your losses in your investment? A. Yes. Q. Do you think that the franchises obecane of its conduct, and let's say its purported contract inducing you to enter into the contract, should be remitled to interest on your losses in Q. Do you spoke de various information that you asked Mr. Stidham, virtually certain was wi | | | | , |
| the business that he loss of - let's see, the money that I invested into the business that have not recovered as of this time and to put a dollar figure on it, it's maybe in the amount of 50 - 9 MR. ROSEN: He didn't ask you to put a dollar figure on the amount that you to to put a dollar figure on the amount that you and to put a dollar figure on the amount that you and to put a dollar figure on the amount that you and to put a dollar figure on the amount that you and to put a dollar figure on the amount that you and to put a dollar figure on the amount that you and to put a dollar figure on the amount that you and to put a dollar figure on the amount that you and the same and you were to reciting some of the areas of damage that you suffered, and you were reciting some of the areas had you had and the same and the same and the same and avertising, did you make an advertising contribution to the franchisor. 4 | | | | - |
| see, the money that I invested into the business that I have not recovered as of this time and to put a dollar figure on a fit, it's maybe in the amount of 50 8 it, it's maybe in the amount of 50 9 | | | | * ** |
| business that I have not recovered as of this time and to put a dollar figure on to put a dollar figure. Q. That was going to be my next to put a dollar figure on the amount hat you adollar figure on the amount hat you to figure on the amount that you to the time that you were in business as a Dunhill franchise owner, what would that estimated amount be? A. I think it was approximately solutional. Q. I will not hold you to that specific estimation, it's just to get an idea of what you were talking about. The \$50,000 in investment and that's to the additional. Q. I will not hold you to that specific estimation, it's just to get an idea of what you were talking about. The \$50,000 investment costs. M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? M. R. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple of questions, did you wake an advertising, did you make an advertising contribution to the franchisor? A. Yes, would you also be looking to recover in this case, would you also be looking to recover not in the contract, should be franchisor because of its conduct, and for the ranchisor because of its conduct, and let set, and the contract, should be responsible for punative damages? A. A. Of course and the variet may be under the franchise of the ranchisor because of its conduct, and let set, and the contract, should be responsible for punative damages? A. Of course fermachis or the franchise of the ranchisor because of its conduct, and let set, sould be let's say its purported countract inducing you to enter into the contract, should be r | 1 | | ! | |
| this time and to put a dollar figure on it, it's maybe in the amount of 50 y MR. ROSEN: If edidn't ask you to put a dollar figure. That was going to be my next question. If you could put an estimated dollar figure on the amount that you invested in either start-up or operating costs during the time that you were in business as a Dunhill franchise owner, what would that estimated amount be? A. I think it was approximately \$50,000 in investment, and that's to the best of my recollection, there may be additional. The \$50,000 investment costs. The \$50,000 investment costs. Page 123 M. Lamanna tidea of what you were talking about. The \$50,000 investment costs. Page 123 M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. MR. ROSEN: MR. ROSEN: MR. ROSEN: Q. Do you think that the franchisor because of its conduct, and let's say its purported contract inducing you to enter into the contract, should be responsible for punative damages? A. Yes, I would think so. Q. You speke about the conversation that you had, that you were virtually certain was with Robert Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham that you were seeking from Mr. | 1 | | 4 | • |
| 8 it, it's maybe in the amount of 50 — 9 MR. ROSEN: He didn't ask you to to to put a dollar figure. 11 Q. That was going to be my next a dollar figure on the amount that you invested in either start-up or operating octs during the time that you were in business as a Dunhill franchise owner, what would that estimated amount be? 18 A. I think it was approximately 19 \$50,000 in investment, and that's to the best of my recollection, there may be additional. 22 Q. I will not hold you to that 23 specific estimation, it's just to get an 24 idea of what you were talking about. 25 The \$50,000 investment costs. Page 123 1 M. Lamanna 2 the franchise fee, both the initial fee and royalties and loss of income and 4 wages, would kind of cover everything? 5 A. It seems to be, yes. 6 MR. WOLF: I believe those 6 are all the questions that I have 8 for you. Thank you very much. 19 MR. ROSEN: I have a couple of questions. 11 EXAMINATION BY 112 MR. ROSEN: 1 have a couple of questions. 11 EXAMINATION BY 112 MR. ROSEN: 1 have a couple of questions. 11 Examinating that you supend money on advertising, did you make an advertising 19 contribution to the franchisor? 20 A. Yes, I did. 20 Did you have to relocate — 20 Did you have to relocate — 21 possible. 8 Q. Do you think that the franchisor because of its conduct, and the franchise say say is approrted contract, should be responsible for punative damages? 10 the constract, should be responsible for punative damages? 20 Vou seret into the contract, should be responsible for punative damages? 20 Vou seret into the contract, should be responsible for punative damages? 21 A. Yes, it was Q. Vou seret into the contract, should be responsible for punative damages? 21 A. Yes, it was Q. Did Dunhill or did any of punatic and advertising did you wake an advertising damage that you make an advertising did you make an advertising | | | 1 | - |
| MR. ROSEN: He didn't ask you to put a dollar figure. Q. That was going to be my next question. If you could put an estimated to live interested in either start-up or operating costs during the time that you were in business as a Dunbill franchise owner, what would that estimated amount be? A. I think it was approximately \$50,000 in investment, and that's to the best of my recollection, there may be additional. Q. I will not hold you to that specific estimation, it's just to get an addition, it's just to get an addition, it's just to get an addition, it's just to get an additional. M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. MR. ROSEN: I have a couple of questions. MR. ROSEN: I have a couple of questions of the areas of damage that you suffered, and you were reciting some of the areas of damage that you suffered, and you were reciting some of the areas of advertising, did you make an advertising gonoribution to the franchisor? A. Yes, I would think so. Q. You spoke about the conversation that you had that you were seeking from Mr. Stidham, and you discussed the various information that you to doul doul also bedout information regarding the costs of the franchise of the fran | | | 1 | |
| to put a dollar figure. Q. That was going to be my next question. If you could put an estimated dollar figure on the amount that you invested in either start-up or operating costs during the time that you were in to business as a Dumhill franchise owner, what would that estimated amount be? A. I think it was approximately sadditional. 2. Q. I will not hold you to that specific estimation, it's just to get an idea of what you were talking about. The \$50,000 investment costs. Page 123 M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. MR. WOLF: I believe those are all the questions. MR. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple of admage that you suffered, and you were at a training session — A. Yes, I would think so. Q. You spoke about the conversation that you had, that you were virtually certain was with Robert Stidham, and you discussed the various information that you waked but information regarding the costs of the franchisor regarding the costs of the franchisor recover in this case, would kind of cover everything? A. It seems to be, yes. MR. ROSEN: I believe those are all the questions that I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple of admage that you suffered, and you were real the questions that I have repossible fee. MR. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple of questions. MR. ROSEN: I have a couple of questions. A. Yes, I wall dent be an area you would also seek to be compensated? A. Yes, I wall dent contract inducting to contract inducting to contract inducting to conversation that you had, that you were virtually certain was with Robert Stidham, and you discussed the various information that you walk early our talked about information that you asked Mr. Stidham, and you talked about information that you asked Mr. Stidham, and you talked about information that you seld from | | | i . | |
| 11 Q.* That was going to be my next question. If you could put an estimated ad dollar figure on the amount that you invested in either start-up or operating costs during the time that you were in business as a Durhill franchise owner, what would that estimated amount be? 18 A. I think it was approximately \$30,000 in investment, and that's to the best of my recollection, there may be best of my recollection, there may be additional. 22 Q. I will not hold you to that specific estimation, it's just to get an idea of what you were talking about. 25 The \$50,000 investment costs. Page 123 1 M. Lamanna 2 the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? 5 A. It seems to be, yes. 6 MR. WOLF: I believe those are all the questions that I have for you. Thank you very much. 8 for you. Thank you very much. 9 MR. ROSEN: I have a couple of questions. 11 EXAMINATION BY 11 EXAMINATION BY 12 MR. ROSEN: 13 Q. Mr. Wolf asked you to if you can recall to recite some of the areas of damage that you suffered, and you were reciting some of the areas of adamage that you suffered, and you were reciting some of the areas of adamage that you suffered, and you were reciting some of the areas of adamage that you suffered, and you were reciting some of the areas of adamage that you suffered, and you were reciting some of the areas of adamage that you suffered, and you were revertising, did you make an advertising ocntribution to the franchisor? 20 Q. Would that be an area you would also seek to be compensated? 21 Q. Would that be an area you would also seek to be compensated? 22 Q. Did you have to relocate — 11 the franchise fee, both the initial dee to you that they wanted you also be looking to recover your attentives indicate to you that they wanted you also be looking to recover your attentives indicate to you that they wanted you adamage that you suffered, and you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Sti | | " | 1 | |
| 12 question. If you could put an estimated dollar figure on the amount that you 13 A. Yes, I would think so. 15 costs during the time that you were in 16 business as a Dumhill franchise owner, what would that estimated amount be? 17 and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information information information regarding the costs of the franchise ready that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the va | | | i | |
| dollar figure on the amount that you invested in either start-up or operating costs during the time that you were in business as a Dunhill franchise owner, what would that estimated amount be? 18 A. I think it was approximately 18 that you discussed the various information that you had, that you were virtually certain was with Robert Stidham, and you discussed the various information that you had, that you were virtually certain was with Robert Stidham, and you discussed the various information that you had, that you were virtually certain was with Robert Stidham, and you discussed the various information that you had, that you were seeking from Mr. Stidham, and you talked about information regarding the costs of the franchise. Was there any other information that you asked Mr. Stidham to give you? A. Of course, in addition to costs, I was looking at what the income Page 123 M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. M. Lamanna That you were seeking from Mr. Stidham, and you talked about information regarding the costs of the franchise. Materia you asked Mr. Stidham, and you talked about information regarding the costs of the franchise. Materia you asked Mr. Stidham, and you talked about information regarding the costs of the franchise. M. Lamanna M. Lamanna M. Lamanna That you were seeking from Mr. Stidham, and you talked about information regarding the costs of the franchise. M. Lamanna M. Lamanna M. Lamanna That you were seeking from Mr. Stidham, and you talked about information that you asked Mr. Stidham, and you talked about information that you asked Mr. Stidham to give you? M. Lamanna M. Lamanna M. Lamanna That you were talking about. Q. Going back to th | 1 | | • | |
| invested in either start-up or operating costs during the time that you were in business as a Dunhill franchise owner, what would that estimated amount be? A. I think it was approximately \$50,000 in investment, and that's to the best of my recollection, there may be additional. Q. I will not hold you to that specific estimation, it's just to get an idea of what you were talking about. The \$50,000 investment costs. Q. I will not hold you to that specific estimation, it's just to get an idea of what you were talking about. The \$50,000 investment costs. Page 123 Page 123 A. It seems to be, yes. MR. WOLF: I believe those are all the questions that I have for you. Thank you very much. MR. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple contribution to the franchisor? A. Yes, I did. Q. Would hab be an area you would also seek to be compensated? A. Yes. Q. Did you have to relocate — 14 Q. You spoke about the conversation that you had, that you were can wath Robert Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you asked Mr. Stidham, and you discussed the various information that you were seeking from Mr. Stidham, and you discussed the various information that you asked Mr. Stidham, and you discussed the various information that you asked Mr. Stidham, and you discussed the various information that you saked Mr. Stidham to give you? A. Of course, in addition to costs, I was looking at what the income A. If possible, eso of course. Q. You were talk | 1 | | 1 | |
| conversation that you had, that you were business as a Dunhill franchise owner, what would that estimated amount be? A. I think it was approximately \$50,000 in investment, and that's to the best of my recollection, there may be additional. Q. I will not hold you to that specific estimation, it's just to get an idea of what you were talking about. The \$50,000 investment costs. Page 123 M. Lamanna the franchise fee, both the initial fee and royalties and loss of income and wages, would kind of cover everything? A. It seems to be, yes. MR. WOLF: I believe those are all the questions that I have a couple of questions. EXAMINATION BY MR. ROSEN: Q. Mr. Wolf asked you to if you advertising, did you make an advertising contribution to the franchisor? A. Yes, I did. Q. Would that be an area you would also seek to be compensated? A. Yes. Q. Did you have to relocate — 15 conversation that you had, that you were virtually certain was with Robert Stidham, and you discussed the various information that you discussed the various information that you take would discussed the various information that you take work of the franchise of the franchise or seeking from Mr. Stidham, and you talked about information regarding the costs of the franchise. Was there any other information that you asked Mr. Stidham to give you? A. Of course, in addition to costs, I was looking at what the income Page 125 M. Lamanna 1 M. Lamanna 2 the franchise fee, both the initial fee 3 and royalties and loss of income and 4 wages, would kind of cover everything? 5 A. It seems to be, yes. 6 MR. WOLF: I believe those 7 are all the questions that I have a couple of questions. 10 Q. Mr. Wolf asked you to if you and testified this was done when you were at a training session — 12 Q. Mr. Wolf asked you to if you adverted the franchise agreement, and you had testified this was done when you | L | | 1 | - |
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| 19 contribution to the franchisor? 20 A. Yes, I did. 21 Q. Would that be an area you 22 would also seek to be compensated? 23 A. Yes. 24 Q. Did you have to relocate - 19 signed before you left the training? 20 A. They wanted my agreement to be 21 signed and the initial check to be 22 delivered while I was at the training. 23 They wanted me to do it as soon as 24 possible. | | | | |
| 20 A. Yes, I did. 21 Q. Would that be an area you 22 would also seek to be compensated? 23 A. Yes. 24 Q. Did you have to relocate 20 A. They wanted my agreement to be 21 signed and the initial check to be 22 delivered while I was at the training. 23 They wanted me to do it as soon as 24 possible. | | | ì | |
| 21 Q. Would that be an area you 22 would also seek to be compensated? 23 A. Yes. 24 Q. Did you have to relocate 21 signed and the initial check to be 22 delivered while I was at the training. 23 They wanted me to do it as soon as 24 possible. | | | 1 | |
| 22 would also seek to be compensated? 23 A. Yes. 24 Q. Did you have to relocate 25 delivered while I was at the training. 26 They wanted me to do it as soon as 27 possible. | 1 | • | i | |
| 23 A. Yes. 24 Q. Did you have to relocate 25 They wanted me to do it as soon as 24 possible. | F | | i | |
| 24 Q. Did you have to relocate 24 possible. | | | | |
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[Page 1] AMERICAN ARBITRATION ASSOCIATION DUNHILL STAFFING SYSTEMS, INC. Claimant, -against-DUNHILL FRANCHISEES TRUST, et. al., Respondents. DEPOSITION OF ELIAS ZINN New York, New York Tuesday, December 12, 2006 Reported by: WILLIAM BYRNE JOB NO. 45470

> U.S. LEGAL SUPPORT, INC. 1 PENN PLAZA, NEW YORK, NY 10119

| ſ | | | |
|-----|----------------------------------------------------------------------|----|-------------------------------------------------------------------------|
| 1 | E. Zinn | 1 | E. Zinn |
| 2 | was never acknowledged as I understand it | 2 | A. Yes. |
| 3 | so at the advice of counsel starting after | 3 | Q. The next category is all of |
| 4 | August, I did not report revenue but it's | 4 | the royalties paid on the permanent |
| 5 | accurately reported through August of '04. | 5 | agreement? |
| 6 | Q. And through August of '04 all | 6 | A. Yes. |
| 7 | of the reported royalties have been paid? | 7 | Q. You are not seeking |
| 8 | A. Yes. | 8 | reimbursement of the royalties paid on the |
| 9 | Q. So it's your position that no | 9 | temp agreement? |
| } | royalties would be due to Dunhill based on | 1 | A. That's a complicated question |
| 10 | royalles would be due to Dunini based on | 11 | because there are no royalties paid on the |
| 11 | the revenues that were collected by your | 12 | temp agreement, so I can't answer yes or |
| 12 | business? | 13 | no to that because I have to visit with |
| 13 | A. At what time? | 14 | that with counsel. |
| 14 | Q. Well, going back to when you | 15 | _ |
| 15 | first became a franchisee. | 16 | Q. The next category is your operating losses, the losses for which you |
| 16 | MR. ROSEN: Can we say | 17 | wrote checks? |
| 17 | through August of '04, which is the | 18 | A. Yes. |
| 18 | last day that he reported them, if | | *** |
| 19 | he answers the question through that | 19 | |
| 20 | date, will that be the answer you | 20 | |
| 21 | are looking for? | 21 | but within 175 and 225,000 through 2000 |
| 22 | MR. WOLF: Well, yeah, without | 22 | and 2003, but that is an approximate |
| 23 | waiving Dunhill's right to the claim | 23 | number. |
| 24 | that its owed royalties past that | 24 | Q. What was the number? |
| 25 | day but yeah. | 25 | A. 175 to 225,000. [Page 164] |
| ļ | [Page 162] | | Erage rosi |
| 1 | E. Zinn | 1 | E. Zinn |
| 2 | A. Yes, everything was reported | 2 | Q. And that is from what period |
| 3 | on the royalty reports. | 3 | to what period? |
| 4 | MR. ROSEN: Was it paid? | 4 | A. From 2000 to 2003. |
| 5 | THE WITNESS: Yes. | 5 | Q. Then the next category was |
| 6 | Q. In this arbitration you're | 6 | capital expenditures? |
| 7 | claiming to have sustained damages; is | 7 | A. Any additional capital |
| 8 | that correct? | 8 | expenditures that I had when we bought the |
| 9 | A. Yes. | 9 | franchise, and we capitalized some issues |
| 10 | Q. What are the damages that you | 10 | that related to the purchase of the |
| 11 | are seeking from Dunhill in this case? | 11 | Dunhill franchises. We subsequently |
| 12 | A. The categories of damages | 12 | didn't write that off until after 2003. |
| 13 | would be the franchise fee for the | 13 | Q. What is the writeoff figure? |
| 14 | permanent and temp; the royalties for the | 14 | A. I haven't really analyzed |
| 15 | permanent; the operating losses that we | 15 | that. I have to get together with our |
| 16 | had to write checks for, the capital | 16 | accountants to see what the exact number |
| 17 | expenses that basically were written off | 17 | is. |
| 18 | at the time we terminated the Dunhill | 18 | Q. Have you undertaken any |
| 19 | franchise; the interest of the monies I | 19 | analysis of the interest that you are |
| 20 | would have invested that money | 20 | claiming on the monies that you would have |
| 21 | differently — and, obviously, the | 21 | invested differently? |
| 22 | attorneys fees, to get back that money. | 22 | A. I have not. |
| | | 23 | Q. How much in attorneys' fees |
| 123 | (The first category is the | | |
| 23 | Q. The first category is the initial franchise fee paid for both the | 1 | |
| 24 | initial franchise fee paid for both the | 24 | are you seeking? |
| | | 24 | |

[42] (Pages 162 to 165)

| 1 E. Zinn 2 lost earnings claim would be based on 3 \$80,000 a year times four years? 4 A. Mid-80s, yes. 5 MR. WOLF: I have nothing 6 further. Thank you very much. 7 MR. ROSEN: Are you finished 8 with your answer on that? 9 THE WITNESS: Yes. 10 MR. ROSEN: I have a couple 11 of questions. 12 EXAMINATION BY 13 MR. ROSEN: 14 Q. Let's go back to November 1999 15 at your meeting, and I would like to clarify a couple of things you said. 17 A. Yes. 18 Q. You testified earlier about 19 the exchange program, what exactly were 20 you told with respect to the exchange 21 program? 22 A. In the meetings in November of 1 E. Zinn 2 also, and what kind of money could I mon and Dunhill franchise. Q. What did she do at that poin A. September October '99 and she proceed say that the Martineus and Winston-Sale are the leading franchisee, they are making over a million and the guys on Cherry Hill are approaching a million the year and you can do it too. 2 Q. Did anybody else that was on the permanent side? 3 on a Dunhill franchise. Q. What did she do at that poin A. She showed the MDS report of September October '99 and she proceed say that the Martineus and Winston-Sale are the leading franchisee, they are making over a million and the guys on Cherry Hill are approaching a million the year and you can do it too. 4 Q. Did anybody else that was on the permanent side? 4 A. That was on the permanent side? 5 A. Tom Esposito in his meeting said that the guys like Phil Mercillen and the guys like Phil Mercillen and the guys like Phil Mercillen and proceed say that the Martineus and Winston-Sale are the leading franchisee. 4 Q. What did she do at that poin A. She showed the MDS report of September October '99 and she proceed say that the Martineus and Winston-Sale are the leading franchisee, they are making over a million and the guys on Cherry Hill are approaching a million the year and you can do it too. 5 Q. Did anybody show you any information or discuss any earnings to franchisees were making on the temps of the exchange are making o | <u></u> | | | |
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| 2 sorry, that made me think. I had lost 3 earnings obviously related to not being in my real estate business because I terminated my managing partnership in my real estate business to take on the Dunhill franchise. Q. How much were you earning as a managing partner of your real estate business? A. A poproximately 80 some-odd thousand a year to be the managing partner. Q. Have you undertaken some calculation of what the value of your lost earnings claim is? A. Well, I would say that each year that I operated at Dunhill and had to write a check to operate it, I was losing the earnings I would have done if I remained the managing partner of the real estate company to 2000 through 2003. I would have earned at least what I earned in '199, which was in the mid-80,000 range. E. Zinn I bust earnings claim would be based on \$80,000 a year times four years? A. Mid-80s, yes. MR. WOLF: I have nothing further. Thank you very much. MR. ROSEN: Are you finished with your answer on that? E. Zinn I bust earnings laim would be based on questions. E. Zinn I bust earnings claim would be based on questions. E. Zinn I bust earnings laim would be based on questions. E. Zinn I bust earnings laim would be based on questions. E. Zinn I bust earnings laim would be based on questions. E. Zinn I bust earnings laim would be based on questions. MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: A. Yos. MR. Q. Let's go back to November 1999 MR. ROSEN: A. You testified earlier about the exchange program, what exactly were you told with respect to the exchange program? A. In the meetings in November of E. Zinn A. That was on the permanent side? Q. Did anybody show you any information of our revenue at that meeting what tertain franchises were making on the temp to did she happen to show that to you? A. Basically, when we went to a private meeting with her I said the dwhy should I buy a Durabill franchise ove MRI, which they seem to be very success (Page MR. ROSEN: A. | 7 | F Zinn | 1 | E. Zinn |
| a earnings obviously related to not being in my real estate business because I terminated my managing partnership in my real estate business to take on the Dunhill franchise. Q. How much were you earning as a managing partner of your real estate business? A. Approximately 80 some-odd thousand a year to be the managing partnership in my partner. Q. Have you undertaken some calculation of what the value of your lost earnings claim is? A. Well, I would say that each year that I operated at Dunhill and had to write a check to operate it, I was losing the earnings I would have done if I remained the managing partner of the real estate company to 2000 through 2003. I would have earned at least what I earned in '199, which was in the mid-80,000 range. D. So the calculation of your (Page 166) E. Zinn Le Zinn R. Woll, I: have nothing further. Thank you very much. MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: I have a couple of questions. EXAMINATION BY MR. ROSEN: I have a couple of clarify a couple of things you said. A. Yes. Q. Von testified earlier about the exchange program, what exactly were you told with respect to the exchange program, what exactly were you told with respect to the exchange program? A. In the meetings in November of one of the temps and in would like to go in the exchange program, what exactly were you told with respect to the exchange program? A. In the meetings in November of one of the program was a temp and the program was a temp and the program was a temp and the program and in the mid-so, one of the program was a temp and the program and the guys on a side? Dunhill exchange program and in the you was were shown information with respect to the exchange program. Q. Who told you that? A. Joanne. Q. And who showed you that? A. Joanne. Q. And who showed you that? A. Joanne. Q. And who showed you that? A. Joanne. P. A. Basically, when we went to a private meeting with her I said I was a proceed with | 2 | | 2 | to 35 percent of our revenue in the |
| my real estate business because I terminated my managing partnership in my real estate business to take on the Dunhill franchise. Q. How much were you earning as a managing partner of your real estate business? A. Approximately 80 some-odd thousand a year to be the managing partner. Q. Have you undertaken some calculation of what the value of your lost earnings claim is? A. Well, I would say that each year that I operated at Dunhill and had to write a check to operate it, I was losing the earnings I would have done if I remained the managing partner of the real estate company to 2000 through 2003. I would have carned at least what I earned in '99, which was in the mid-80,000 range. D. So the calculation of your (Page 166) E. Zinn E. Zinn E. Zinn E. Zinn S80,000 a year times four years? A. Mid-80s, yes. MR. WOLF: I have nothing further. Thank you very much. MR. ROSEN: MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: Are you finished with your answer on that? MR. ROSEN: Are you finished with your answer on that? A. Yes. MR. ROSEN: Are you finished with your answer on that? A. Yes. What did she happen to show that to you? MR. ROSEN: Are you finished with your answer on that? A. She showed the MDS report or October '99 and she proceed say that the Martineus and Winston-Sell and the question is why should I buy a Dunhill franchise ove a making over a million and the guys on Cherry Hill are approaching a million the year and you can do it too. Q. Did anybody show you any information or discuss any earnings to franchisese were making on the temp you had the was on the permanent side? A. In the meetings in November of 40 D. Did anybody show you any information or discuss are making of the temp you and by the exchange program, what exactly were you told with respec | 2 | earnings obviously related to not being in | | ± |
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| 7 Dunhill franchise. 8 Q. How much were you earning as a managing partner of your real estate business? 11 A. Approximately 80 some-odd thousand a year to be the managing partner. 12 Q. Have you undertaken some calculation of what the value of your lost earnings claim is? 13 A. Well, I would say that each year that I operated at Dunhill and had to write a check to operate it, I was losing the earnings I would have done if I remained the managing partner of the real cstate company to 2000 through 2003. I would have carned at least what I earned in '99, which was in the mid-80,000 range. 12 E. Zinn 13 Lost earnings claim would be based on \$80,000 a year times four years? 14 A. Mid-80s, yes. 15 MR. WOLF: I have nothing further. Thank you very much. 16 MR. ROSEN: Are you finished with your answer on that? 17 J. M. Well, I would side to claim for the real could the well of the program? 18 J. | | estate business to take on the | | |
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[43] (Pages 166 to 169)